IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 618 OF 2007

Ravindra Motiram Salve ..Petitioner

Vs.

Sharda Ravindra Salve and ors. ..Respondents

Mr. A.R. Shaikh for petitioner.
Mr. D.R. More, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : August 17, 2007.

P.C.:

1. Heard Mr. Shaikh the learned counsel for the petitioner. Mr. More the learned APP appears for the State.

2. The respondent no.1 had approached the learned JMFC at Manmad in Maintenance Application No. 37 of 2000 filed under Section 125 of Cr.P.C. and prayed for maintenance for herself and her minor son, present respondent no.2. The learned Magistrate by his judgment and order dated 1/4/2005 held that the applicant no.1 - Sharada was not the legally wedded

wife of the present petitioner and, therefore, her claim for maintenance was rejected. The learned Magistrate further proceeded to hold that the applicant no.2 - Kum. Akash was the illegitimate son of the present petitioner and, therefore, he was directed to pay an amount of Rs.300/- p.m. for the maintenance of applicant no.2. This order came to be challenged in Criminal Revision Application No.90 of 2005 and the same came to be dismissed by the learned 2nd Ad-hoc Addl. Sessions Judge, Malegaon on 22/6/2006. Hence this petition which is filed almost after nine months from the date of the order passed by the Sessions Court.

3. It was the case of the applicant no.1 that she was cohabiting with the present petitioner as his wife and she was married to him on 22/7/1993 as per the Buddha religion and from the said wedlock the applicant no.2 was born on 9/9/1994. In defence the present petitioner had contended that he was already married with Subhadra on 21/5/1989 and he had not married the applicant no.1-Sharada at any time. While in the witness box the applicant no.1 stated that the

non-applicant maintained her for few days after they were married and thereafter he started demanding cash amount of Rs.20,000/- to be paid for seeking permanency in employment. She could not meet his demand due to poverty and, therefore, the non-applicant started ill-treating her mentally and physically, including starvation. The non-applicant also examined his first wife Subhadra as well as to neighbours, namely, Rohidas Gangadhar Jogdand and Kisan Pilaji Shinde, both of whom stated before the trial court that the non-applicant was already married. The learned Magistrate considered the documentary evidence and more particularly the birth extract from the register maintained (Exh.31) by the Tahsildar and held that though the applicant no.1 could not be said to be a legally wedded wife of the non-applicant but the applicant no.2 was the illegitimate son born to applicant no.1 from the non-applicant. This view has been upheld by the Sessions Court.

4. There is no case made out to find fault with the concurrent view taken by both the courts below

regarding the paternity of the original applicant no.2 and hence there is no case made out to cause interference in this petition under Article 227 of the Constitution in the order directing maintenance amount to be paid to the son.

5. Petition is rejected summarily.

(B.H. Marlapalle,J.)